THE LEGAL MINIMUM WAGE IN THE UNITED STATES

Several recent events have revived the interest of American economists in proposals for the public regulation of wages in private employments. Two years ago the parliament of Great Britain passed the Trade Boards act to provide for certain British industries a procedure for the regulation of wages, modelled upon that of the minimum wage boards originally established in the Australian state of Victoria by the Factory and Shops act of 1896. In the present year bills to provide for the fixing of minimum wages in underpaid employments by authority of law were introduced into the legislatures of two American states, Minnesota and Wisconsin, and in a third, Massachusetts, a commission was appointed to investigate the wages of women and minors employed within the state and report to the next legislature upon the advisability of the establishment of minimum wage boards.[1] Recently, proposals have also been brought forward for the establishment by federal legislation of a standard mimimum wage for alien immigrants.

Underlying this various legislation, actual and proposed, are various different purposes. The Victorian legislation, unlike the contemporary New Zealand and subsequent Australian legislation with reference to so-called compulsory arbitration, seems to have owed its origin primarily to the desire to abolish sweating, that is, certain undesirable conditions of employment, such as excessively long hours and excessively low rates of wages. There was a further purpose to protect the white Australian's standard of living from the insidious competition of colored races, particularly of the Chinese. Victorian minimum wage boards consist of from four to ten members, half selected by or on behalf of the employers, half by or on behalf of the employees, and an impartial chairman. The boards are established for such trades as the state legislature may direct, a special board being established for each trade, and are authorized to fix the lowest rates of wages that may be lawfully paid in their respective trades. There is no attempt at a statutory definition of a standard living wage for all Victorian wage-earners. Indeed the amending act of 1903 contained a clause expressly providing that the determinations of wage boards should

[1] Written in 1911. The Massachusetts commission has since reported (January, 1912) in favor of legislation for the fixing of minimum wages for women and minors.

be based on the "average prices or rates of payment paid by reputable employers to employees of average capacity." Although "reputable" was generally interpreted as "best," yet it was generally felt that the provision seriously hampered the boards, and in 1907 it was stricken out, giving them complete discretion in the fixing of a minimum wage. The Victorian wage boards are not restricted in their activity to the fixing of minimum wages for workpeople receiving less than a standard living wage. They may, with equal propriety, fix the lowest lawful rates of payment for skilled and other highly paid grades of labor, and for the unskilled and oppressed; and wage boards may even be established for industries in which no wage-earners are employed at or below the living wage level.

In 1903 a court of industrial appeals was established, consisting of one judge of the supreme court of the state, for the purpose of hearing appeals from determinations of the wage boards. The appeal may be taken by the employers or employees in a trade, or by the government, but no appeal has the effect of suspending or delaying the operation of the determination. In hearing and deciding such appeals, the court of industrial appeals possesses all the powers of the state supreme court, and "shall in every case be guided by the real justice of the matter without regard to legal forms."[2] The court of industrial appeals is further instructed to consider whether a determination brought before it has had or may have the effect of prejudicing the progress of a trade or the maintenance or scope of employment therein, "and if of opinion that it has had or may have such effect the court shall make such alterations as in its opinion may be necessary to remove or prevent such effect and at the same time to secure a living to the employees."[3] The law takes no notice of the possibility that there may be trades in which the maintenance of the trade in the face of uncontrollable competition and the payment of a living wage to the employees may be incompatible.

In practice there have been few appeals to the court. The boards have taken their cue from the language of the statute, and instead of attempting to determine the cost of the standard living in the state they have attempted rather to bring together employers and wage-earners in the several industries for which

[2] Factories and Shops Act, 1907, No. 2137.

[3] Factories and Shops Act, 1905, No. 1905.

they have been established for the adoption of common rules for the trade, including among the rest mutually acceptable rates of wages. Thus their chief concern is to ascertain and publish the normal "going" wages for the various grades of labor in the several industries, and to provide suitable machinery for the re-adjustment of wages and conditions of employment generally to changing economic conditions. In this they have been successful. The number of special boards has been continually increased until there are now nearly a hundred in commission, regulating wages and hours of labor for nearly all the wage-earners, both men and women, of the state. For ten years there was no strike of any importance in a trade under a special board. In 1907 a strike took place, when the bakers' union ordered the journeymen out, not against a determination of a wage board, however, but against a decision of the court of industrial appeals, annulling an increase of wages determined by the board. It was quickly ended in a victory for the strikers. Whatever may have been the original purpose of the Victorian wage boards, their chief function today is to establish a more solid foundation for industrial peace. The protection of the standard of living is merely incidental thereto. This function has become so well recognized in Australia, that upon the temporary collapse of the system of compulsory arbitration in New South Wales in 1908, an attempt was made by the government then in office to introduce the Victorian system in its stead. The Labor party vigorously opposed this attempt, ultimately with apparent success. In short, the Victorian wage boards serve today primarily to foster collective bargaining between capital and labor with a view to the peaceful conciliation of industrial disputes.

The Victorian wage boards are trade boards, and as such have certain advantages over a district board as a mode of industrial conciliation. They bring together more effectually than district boards do, the employers and employees concerned in a particular dispute, and they are more competent to deal with a complicated industrial wage-scale than is a board partly composed of representatives of other trades. Their organization by law renders them available for grades of workpeople who are incapable of organizing effectually for themselves. Their official character gives their determinations a force beyond that ordinarily attained by the determinations of voluntary boards. But they add no peculiar

sanctity to the results of collective bargaining. Strikes in trades for which determinations have been lawfully made are not criminal acts, and there is no effectual remedy for the aggrieved party. Since 1908, however, the government has reserved the power to suspend a determination in case of a strike, thus enabling the employers to hire strike-breakers in the cheapest market. Fortunately, the mere process of getting together the representatives of employers and employees in a trade seems to contain within it, self the prerequisites of industrial peace under ordinary circumstances. A proposal to establish wage boards upon the Victorian model in the United States, however, must be advocated upon different grounds, and will have a different constitutional status from that of a proposal to establish wage boards for the sole purpose of fixing a minimum standard-of-living wage.

The British legislation of 1909 does not attempt to cope with the board problem of industrial warfare. The object of the act is the abolition of sweating, that is, the reduction of abnormally long hours of labor and the raising of abnormally low rates of wages, and in general, so far as may be through the regulation of the terms of employment, the maintenance of normal living conditions according to British notions of normal living. The boards, the establishment of which was made mandatory by the terms of the act, were to deal with the trades in which sweating was supposed to be most intolerable, or most susceptible to that particular mode of treatment. It is of interest to note how far the British trade boards, as they are called, are a true copy and how far they have departed from the type of the Victorian original. In size they are larger. Otherwise they are constituted after the fashion of their prototypes. There is likewise an appeal, the reviewing body being the Board of Trade. The trade boards themselves have adopted the procedure of the Victorian boards. Their determinations are the results of bargaining, not of inquiry into the cost of living and the establishment of a standard-of-living wage, irrespective of trade conditions in the trades to which the determinations are to apply. The prescribed minimum, therefore, varies from trade to trade, and unequal minimum wages are prescribed for normal adult workers within the same trade employed in different branches thereof. This system of regulating wages is more than the establishing of a minimum standard-of-living wage. It amounts to the regulating of wages generally in the trades for

which the boards have been established, and hence, though its scope is now more limited, economically, and from the American standpoint, constitutionally, it must be classed with the Victorian system of wage regulation.

Hitherto Americans generally have refused to consider proposals for the regulation of rates of wages in private employments by authority of law. It has been assumed that no such proposals could escape conflict with the fundamental law. To be sure, if any scheme for the public regulation of rates of wages gave promise of being desirable upon economic grounds under conditions known to exist in any American state, the fact of its assumed or even demonstrated unconstitutionality would not be a bar to its discussion by economists. Nevertheless, the path of any proposal for novel legislation is made smoother by the dissipation of doubts concerning its constitutional status, even if those doubts be resolved in an unfavorable sense. Hence, before considering the economic validity of the several schemes for fixing legal minimum wages, the question of their constitutionality should first be examined.

The doctrine of the judicial review of the exercise of legislative authority owes its present importance in the United States to two circumstances. One is the interpretation placed upon a certain clause of the fourteenth amendment to the federal constitution by the federal supreme court. The other is the manning of our courts with a set of judges whose economic training was received mainly from the so-called classical school of political economists. Since 1868 no person may be deprived of life, liberty or property, without due process of law, as interpreted by the federal courts. There has been much controversy over the meaning of the terms "deprived of liberty" and "property," and this controversy directly concerns the status of the proposal to regulate wages in private employments by law. Is constitutional liberty simply freedom from physical restraint, or does the term mean freedom from control in any manner except in so far as may be necessary to assure a like freedom to others? If the former, a statute regulating wages in private employments will not work a deprivation of liberty, since it carries with it no restraint of the body, but merely of the legal capacity to enter into a contract. If the latter, such a statute will work a deprivation of liberty, since it will restrict the freedom of the individual employer to buy labor in

the cheapest market, and of the individual wage-earner to sell his labor for what it will fetch. Again, is constitutional property simply things of value the possession of which is recognized by law, or does the term include also things of value which may be acquired, provided the individual's legal privileges at the moment are preserved unaltered. If the former, a statute regulating wages will not work a deprivation of property since it will not of itself diminish the quantity of a person's possessions. If the latter, such a statute, by imposing a new limitation upon the privilege of making lawful contracts, may deprive a person of an opportunity to enter into a supposedly advantageous agreement to buy or sell labor. The federal supreme court has interpreted the fundamental law in each of the pair of alternatives in the latter sense. The effect of such judicial interpretation has been to read into the constitution a doctrine that is nowhere expressed therein, namely, the doctrine of freedom of contract.

In most of our states, however, this constitutional freedom of contract is for men only. Women and children are regarded as under the tutelage of the state, and the law may impose such restrictions upon their privilege of entering into contracts as may be deemed necessary and proper. A law fixing the rates of wages in private employments for women and minors is not open in such states to the constitutional objection that might lie against such a law for men. Partly in recognition of this circumstance and partly on account of the supposed greater need of protection against industrial exploitation for women and minors, the advocates of minimum wage legislation in the United States upon the Victorian and British models have lately directed their efforts to securing legislation which shall apply only to women and minors. Thus the Minnesota bill of the present year was frankly founded upon the Victorian and British models, but was designed to put an end to the evils of sweating, so far only as women and minors might be concerned. The scope of the investigation to be made by the Massachusetts commission is also limited to wage-earning women and minors. In several of the states, on the other hand, including states like Illinois, in which the evils of sweating are most apparent, women enjoy the same constitutional rights and privileges as men, and such bills as that introduced into the Minnesota legislature would have no better prospect of withstanding the scrutiny of the courts than a similar bill for all adults, male

and female alike. Nor is it clear upon economic grounds that the underpayment of women is a more serious menace to society than the underpayment of men, upon whom as the heads of families, the majority of women are dependent for support. The minimum standard-of-living wage, if it be sound in principle, would appear to apply with most propriety to men in their capacity of heads of families. Women, in their capacity of joint heads of families, would be entitled to their proper share in the family income. The single woman, following a trade, would not be entitled to more, unless it should appear that the supply of marriageable women could not be maintained without the payment of more. The justification of the minimum standard-of-living wage must be found, if at all, in the social necessity for the maintenance of the family. If, in the application of the principle, the evidence should show that, as a matter of fact, women were oppressed to a greater degree than men by employment in sweated trades, that would be a matter with which the enforcing authority would properly deal.

Now a statute regulating the wages of men in private employments undoubtedly places a restriction upon the freedom of contract. This circumstance alone, however, does not render such a statute unconstitutional. There is no constitutional objection to the limitation of the freedom of contract, provided that the limitation is not accomplished without due process of law. If the established requirements of legal procedure are properly complied with, there would appear to be no sufficient cause for a refusal on the part of the federal courts to enforce a statute regulating wages in private employments. The constitutionality of such legislation depends, therefore, upon the possession by some legislative body of authority to accomplish its enactment. Such authority may be found in the ordinary police power of the state to provide for the common defense and general welfare of its citizens. This power is restricted only by expressed limitations in the state constitutions, by the delegation of certain powers to the federal government, and by the requirement that the legislature in its exercise of the police power shall be guided by reason. The only state constitution to contain a prohibition against the legal regulation of wages in private employments is that of Louisiana. The power to legislate with regard to interstate and foreign commerce is vested exclusively in the United States, which may prevent the application of state minimum wage laws to per-

sons engaged in interstate commerce. In all other fields of labor, reasonable restrictions upon the freedom of contract may be imposed by state legislation for the purpose of protecting the public against the evil results of accidents, disease, bad habits (such as, for example, the abuse of intoxicating liquor), overwork, underpayment, and all other things whatsoever that may be deemed inimical to the well-being of society. The United States may do the same in the field delegated to it. What is or is not, under given circumstances, a reasonable restriction is in the first instance to be determined by a legislative body, subject to subsequent review by the judiciary, whenever cases of alleged unreasonable use of the police power are properly brought before them. The prevalent uncertainty concerning the constitutionality of the legal regulation of wages in private employments arises, not from the boldness and vigor with which our courts have become accustomed to use their power of reviewing the reasonableness of legislation under the police power, but from their general acceptance of an economic theory now being discarded by the mass of the people.

The phrase, freedom of contract, is new in American legal terminology. Francis Lieber in his *Civil Liberty and Self-Government* (1852) makes no mention of it. It is first found in a reported decision of a Pennsylvania court handed down in the year 1886. The idea which is embodied in the phrase is not much older. In substance our courts have read into the federal constitution not simply a phrase, but a whole theory of government. As Mr. Justice Holmes tersely remarked in his dissenting opinion in the New York Bakers' Ten House case, the majority of the court had read into the fourteenth amendment the *Social Statics* of Herbert Spencer. The effect is that our fundamental law now not only guarantees to the states a republican form of government, but also guarantees the conduct of state affairs according to the principles of laissez faire.

The phrase "due process of law" is a part of the American heritage from the English constitution. It was first inserted in the federal constitution in 1790 as a part of the fifth amendment, and had then the same meaning that it had in England at that time. Yet in England at that time and for more than a score of years afterward, wages in private employments were fixed by public authority under the Elizabethan statute of artificers, and no one complained that it was done without due process of law. To

the layman there is no convincing evidence that the "fathers" intended to establish the rule of laissez faire by the fifth amendment to the federal constitution. Nor is there any convincing evidence that when the same phrase was embodied in the fourteenth amendment seventy-eight years later, anything more was intended by the people of the United States than to enable the federal courts to protect the freedmen in the enjoyment of the same personal and property rights as white men. The construction of the fourteenth amendment that threatens the capacity of the state legislatures to regulate wages in private employments, if they deem it necessary and proper for the protection of the public, is not the work of the American people in 1868, but of the courts in subsequent years. Like all acts of government, constituting government by men and not by law, this novel interpretation of the fundamental law can be undone by a change in the men who interpret it. The principles of laissez faire, having been read into the constitution, can be read out again.

The assumption that no such proposal as that to regulate wages in private employments can be enforced through the courts is premature. It is first indispensable, however, that the American people should be convinced that some action for the protection of the American standard of living is necessary, and that the proposed remedy is appropriate. Whereas the Illinois court of last resort once refused to enforce a law regulating the hours of labor of women, and then, in the light of further reflection and a more thorough acquaintance with the actual conditions of employment in the state, (in the second Ritchie case) reversed its earlier decision, so social reformers who can prove their case for the minimum wage may expect equally favorable consideration from the courts. There is no essential difference, so far as constitutional status is concerned, between the legal regulation of the hours of labor, and the legal regulation of wages. The constitutionality of both alike is solely a matter of producing sufficient evidence showing the necessity and appropriateness of the proposed legislation. Socialism itself would be constitutional, if a social revolution could be shown to be necessary, and if that particular kind of a social revolution could be shown to be appropriate to the occasion. Our constitutional system is susceptible of adaptation to any social condition. The constitutionality of plans for the legal regulation of wages depends, then, upon the necessities of the case to which

they are to be applied, and the appropriateness of the particular plans presented.

There is one further consideration. A legislative body may not delegate legislative power to another branch of government. A minimum wage board, constitutionally regarded, is an administrative body, and may not be entrusted with legislative power. In the United States, therefore, the legislature may not delegate the whole function of regulating wages to a set of special boards. The legislature itself must define the principles of just and reasonable wages, which the boards are to administer for their respective trades and localities. Now it is certain that no legislative body in the United States today is prepared to define the principles of just and reasonable wages. It is, therefore, beyond the power of an American legislature to enact a constitutional system of wage boards upon the Victorian and British models. There are two alternatives. The legislatures may declare all private employments to be affected with a public interest to the extent that just and reasonable rates of wages shall be paid to all wage-earners. This would place upon the courts in the last analysis the responsibility for the definition of justice and reasonableness with respect to rates of wages, as is the case today with respect to the rates of railways and other public utilities. Such a system of public regulation of wages would be substantially the same as the New Zealand and Australian system of compulsory arbitration, and would require for its constitutional justification a wholly different array of evidence from that required for the justification of a minimum standard-of-living wage. The former would require evidence showing the public need for protection against the evil results of unrestrained industrial warfare; the latter would require evidence showing the public need for protection against the evil results of unrestrained underpayment of workpeople.

The other alternative is not to attempt to define the principles of just and reasonable wages generally, but to define the principle of a minimum standard-of-living wage only. The bill introduced into the legislature of Wisconsin was founded upon a correct analysis of the peculiar American constitutional situation. This bill assumed the existence of sufficient evidence showing the necessity of protecting the public against the evil results of employment at less than standard-of-living wages, and defined the minimum wage as such compensation for labor performed under rea-

sonable conditions as should enable employees to secure for themselves and those who are, or may be, reasonably dependent upon them, the necessary comforts of life. The term "necessary comforts of life" is not defined in the bill. The same term, however, is employed in the constitutions of seven states, Indiana, Minnesota, Montana, Nevada, North and South Dakota and Wisconsin, in connection with the grant to their respective legislatures of the power to enact debtors' exemption laws, and has consequently been authoritatively defined by the courts themselves. "The privilege of the debtor to enjoy the necessary comforts of life shall be recognized by wholesome laws exempting a reasonable amount of property." This same privilege of enjoying the necessary comforts of life the advocates of the Wisconsin minimum wage bill proposed to extend to all adult wage-earners laboring under reasonable conditions. The bill did not guarantee employment to the unemployable, but it did guarantee reasonable conditions of employment and a minimum standard-of-living wage to all who are employed. This guarantee was ultimately to be enforced by an industrial commission, which, under a broad grant of power to investigate, hold public hearings, ascertain and classify each oppressive employment, and fix for each underpaid employee the standard-of-living wage, would have ample power to establish minimum wage boards of the British type for the provisional translation of the standard-of-living wage into wage scales suitable to the peculiar conditions in the various sweated industries of the state. The Wisconsin industrial commission, like the British Board of Trade, would itself have to assume the responsibility for the final determinations. Thus the Wisconsin bill, like the British Trade Boards act, was designed to protect all the victims of sweating, but not to regulate wages except in so far as required for the maintenance of the standard of living.[4]

It is now in order to examine the evidence relied upon by the advocates of the legal protection of the standard of living to show the necessity for action. The most recent, and probably the most

[4] The Massachusetts bill of 1912 is drafted upon similar principles. It defines underpayment, against which the public should be protected, as the payment of wages "inadequate to supply the necessary cost of living and to maintain the worker in health." The bill applies to women and minors only, and provides that a minimum wage commission shall inquire into the rates of wages paid to such employees and establish wage boards in trades in which wages are found to be unduly low. Upon the recommendation of such a board, the commission may then fix the minimum wage in the trade.

satisfactory, attempt to determine the cost of maintaining the normal American standard of living is that of Mr. Frank H. Streightoff. He places the minimum family income adequate to the maintenance of normal living conditions in the smaller cities of the North, according to the generally prevailing American notions of decent living, at $650 a year. Dr. Chapin places the figure at $800 or over in New York, but in order to avoid the appearance of exaggeration let us take the figure of $600. The most recent and probably the best evidence concerning the number of households receiving less than this minimum family income is contained in the reports of the Immigration Commission. In the official abstract of the report on immigrants in manufacturing and mining the public is informed that the average annual family income in sixteen leading industries in which a large number of typical households, representing all nationalities, native and foreign, were intensively studied, is $721. The report does not indicate what percentage of this number of households receive an annual income of less than $600, but it is stated that no less than 31.3 per cent receive less than $500, and 7.6 per cent receive less than $300. The annual earnings of male heads of families alone are lower. More than half earn less than $500 a year, and nearly two thirds earn less than $600 a year. If we examine the official abstract of the report on immigrants in cities we find even more depressing conditions. Of 5,825 families dwelling in typical congested blocks in New York, Chicago, Philadelphia, Boston, Cleveland, Buffalo and Milwaukee, the male heads earned on an average only $475. No less than 72.2 per cent of the whole number earned less than $600 a year, and 41.2 per cent earned less than $400. The average annual earnings of the 3,609 females in the households studied and reported in the abstract on immigrants in manufacturing and mining were $304. No less than 26.4 per cent of them earned less than $200 a year. The average annual earnings of the 2,595 females eighteen years of age or over working for wages and reported in the abstract on immigrants in cities were $239. No less than 67.9 per cent of these earned under $300 a year, and 44.8 per cent earned under $200 a year. With these latest official figures in mind concerning the extent and intensity of underpayment, we are prepared to accept Mr. Streightoff's estimate that at least five million adult males receive less than $600 a year for their labor. Not all of these are the heads of families, but on the other

hand, there must be many thousands of single women who are not receiving half of $600, and probably are quite as unable to maintain normal American living conditions as the head of a household earning under $600. Mr. Streightoff writes in no controversial spirit, but he does not conceal his belief that the current wage for unskilled labor is too low to meet the requirements of a decent standard. He finds abundant evidence of families deteriorating physically because of insufficient income, and even where the wage suffices for food, clothing and shelter, little or nothing remains to meet the wants of the intellectual and spiritual life. In the light of these and other recent investigations into the standard of living among the industrial population of the United States, the fact that a very considerable number of workpeople are now employed in the United States at less than an American standard-of-living wage may be regarded as sufficiently established.

The final consideration with respect to the legal protection of the American standard-of-living by means of minimum wage legislation, is its appropriateness to the existing situation. The minimum wage in itself is not unfamiliar. It is a standard feature of trade-unionism, and involves no new principle. It restricts somewhat the field of competition, but does not disturb the foundations of the competitive system. The select committee on home work of the British House of Commons reported in 1908: "Your committee are of opinion that it is quite as legitimate to establish by legislation a minimum standard of remuneration as it is to establish such a standard of sanitation, cleanliness, ventilation, air-space, and hours of work." The economic reasoning underlying proposals to establish minimum standards of remuneration and conditions of employment generally is familiar to economists, and requires no further elaboration in this place. The student who desires to pursue further the economic argument in favor of the minimum standard of remuneration in particular should consult the Webbs' *Industrial Democracy*, part III, chap. iii.[5]

The immediate direct effect of the establishment of a minimum standard-of-living wage would be to put an end to the employment of normal adult workers at lower rates. Not every wage-earner who had been employed at lower rates would necessarily be deprived of employment, nor would the wage of every such wage-earner

[5] § § d. e. and f; pp. 749-788 of 1902 ed. Cf. F. W. Taussig, *Principles of Economics*, ch. 56, § 5; ch. 57, § § 6, 7; vol. II, pp. 297-302, 316-322.

necessarily be increased to the standard minimum rate. Some employees would receive the increase and some would lose their employment. The actual effect of the legal establishment of the minimum would depend in particular cases, partly upon the efficiency of the particular wage-earners concerned, and partly upon the character of the demand for their services. In industries like department stores and steam laundries, which serve local markets and are free from outside competition, probably the increase of wages, caused by the establishment of a standard minimum, could be paid to all employees below the minimum without so increasing the cost of production as to produce any material decline of the demand. But in industries serving a wider market and subject to outside competition, such as cotton mills and shoe factories, the establishment of a legal minimum wage might reduce employment rather than increase wages. The outcome would depend largely upon the extent of the necessary increase, and the rapidity with which it should be put into force. Some sweated industries, parasitic industries as the Webbs call them, might be altogether incapable of maintaining themselves, if prevented from exploiting unprotected labor by the payment of abnormally low wages. Such industries as these, the country is better without. They fall in the same class with lotteries and other noxious enterprises, and the community should either pay for their products a price sufficient to maintain the normal conditions of remuneration and employment, or supply itself from abroad.

The greatest difficulty arises in the cases where workpeople of distinctly different standards of living come into competition with one another in industries to which the legal minimum wage is to be applied. Unless the various groups of workpeople are of equal efficiency, the attempt to establish a single standard for all might result in securing the industry to the most efficient group and excluding the others from all prospect of employment therein. Such would be the result, for example, in the Victorian furniture industry, if the white Australian standard could be forced upon the Chinese. In fact, it is impossible to enforce the determinations of the furniture board in the Chinese factories, and the latter hold their position in the industry. The same conditions might be found to exist in certain industries in the United States, were the experiment attempted of fixing the American standard-of-living wage as a minimum for all groups of wage-earners. The truth is that there

is no single American standard of living today. There are several standards of living among the industrial population of the United States, and in consequence a tendency towards an occupational division of labor between different races. The Immigration Commission reports in the volume first cited above, that 59.6 per cent of the negro families intensively studied received under $500 a year, 41.6 per cent of the foreign born received under $500 a year, whereas only 19 per cent of the native born of foreign father (mostly of races from the Northwest of Europe rather than from the Southeast, as is the case with most of the recent immigrants), and 15.7 per cent of the native born of native white father received under $500 a year. To attempt to establish the principle of an American standard-of-living wage for alien races of distinctly lower standards and lower efficiency, would probably result in the exclusion of many aliens from employment within the country. It would also result in the exclusion of most of the negroes from the occupations in which the wage should be adjusted to the efficiency of the native whites.

Yet one of the most striking facts indicated by a comparison of the earnings of the races in different industries is that within certain limits earning capacity is more the outcome of industrial opportunity than of racial efficiency. This fact becomes evident when the average weekly earnings of the members of a single race in the cotton or woolen and worsted goods industries, as reported in the official abstract of the Immigration Commission's report on immigrants in manufactures and mining, are compared with the earnings of the same race in other industries. The Lithuanians, for example, earn an average of $12.24 weekly in the manufacture of agricultural implements and vehicles, $11.60 in clothing, $13.60 in copper mining and smelting, $9.87 in furniture, $12.89 in iron and steel, $11.98 in iron-ore mining, $9.50 in leather, $12.85 in oil refining, $10.87 in shoes, $10.67 in sugar refining, but only $7.86 in cotton and $7.97 in woolen and worsted goods manufacturing. A legal minimum wage would apparently be of advantage in promoting a better distribution of such immigrants among our various industries.

The indirect economic effects of the establishment of a minimum standard-of-living wage may be mentioned summarily. First, the establishment by legislation of a minimum standard-of-living wage would make available to the poorest and most helpless of the labor-

ing population a share in the advantages obtained by the better-to-do and stronger through voluntary association. Well-conducted, powerful labor unions do more for their members than merely to establish a minimum wage and maximum hours of employment, but the weak and poverty-stricken unions of the sweated workers are scarcely better than none at all. The advantage of the establishment of a minimum wage and standard conditions of employment generally by law instead of leaving it to the action of private trade associations is the greater security for the protection of the interests of the public against the abuse of irresponsible power in the interests of special classes. Secondly, the line would be drawn more sharply between the unemployable and the merely unemployed. The unemployable are always with us, and must be provided for by some means in any event. The establishment of a minimum standard-of-living wage would define more accurately the limits of that unfortunate class, and thus facilitate the task of giving its members treatment suitable to their condition. Although the number of the unemployable might be greater than that of the destitute under present conditions, the isolation of one more of the causes of destitution would be a gain to the cause of scientific poor relief. It would also tend to restrict the influx of the unemployable from abroad, thus at once checking the increase of inferior labor and raising the average efficiency of the domestic supply. Thirdly, there would result a restriction of the field of competition between workpeople. The wage-earner whose chief recommendation is willingness to work for a pittance would lose the advantage of his submissiveness, and strength and skill would become of greater importance in the obtaining of employment. Fourthly, there would result a restriction of the field of competition between employers. The employer whose chief stock in trade is his shrewdness in driving hard bargains with his employees would lose the advantage of that pernicious superiority. The peculiar qualities of the best type of businessman, imagination, judgment and courage in undertaking legitimate business risks, and sagacity in the management of his establishment, would become of greater importance in the achievement of success, especially in the sweated industries. In short, the indirect economic effect of the establishment of a minimum standard-of-living wage would be to promote the concentration of competition between workpeople and between employers upon efficiency.

The ultimate consequences of a legal minimum wage are not so certain. The legal protection of the standard of living cannot directly bring about a rise in the general level of wages. In the first instance, it can affect only the wage-earners who are earning less than the minimum. To such as these it offers the hope of employment at the standard-of-living wage. It cannot guarantee such employment. In the long run wages must depend upon efficiency. Temporarily, by the establishment of a legal minimum workpeople may be able to secure a higher wage than they are worth. In the long run, however, unless they increase their output to correspond to their increased income, they will not be worth to the community what the community is undertaking to pay them. The state which assumes the responsibility for the establishment of a minimum wage must also assume the responsibility for the establishment of a minimum standard of efficiency.

Minimum wage legislation and industrial education must go hand in hand together. In such a country as the United States it may also be necessary to restrict the supply of labor of the lower grades. The establishment of a legal minimum wage would of itself tend somewhat to obstruct the influx of laborers of low efficiency; but the otherwise unrestricted influx of laborers of low efficiency would also tend to obstruct the maintenance of a minimum wage at the native standard-of-living level. Probably some further means of restricting immigration would be necessary. It must not be forgotten, too, that a minimum wage law cannot cure the evils that arise from the foolish spending of incomes, small or great. Some immediate protection, however, for the American standard of living is necessary, and an appropriate means is the establishment by legislation of a minimum wage.

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